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10/023,674	12/18/2001	Jonathan E. Schmidt	066900.000002	3270

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EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT PAPER NUMBER

2154

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/023,674

Applicant(s)

SCHMIDT ET AL.

Examiner

Ashok B. Patel

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 40-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-42 are subject to examination. Claims 5 and 40-42 are cancelled.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/28/2005 has been entered.

#### ***Response to Arguments***

3. Applicant's arguments filed 09/28/2005 have been fully considered but they are not persuasive for the following reasons:

#### **Applicant's argument:**

"As such, currently amended claim 1 advantageously discloses instructing the subscriber to go to the originally requested site by transmitting a modified message to the subscriber to cause the inclusion of the original upstream flow of web traffic data for connecting the subscriber to the original destination URL, and to also go to an additional site for a message which will then be delivered to the subscriber by providing additional web traffic data generated at the consolidating and managing device."

#### **Examiner's response:**

Simmons teaches these limitations in col. 6, line 15-58.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites the limitation "the original destination URL" in line 17. There is insufficient antecedent basis for this limitation in the claim.

7. Claims 2 and 3 recite the limitation "the message vehicle" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Response to Amendment***

8. The amendment filed 09/28/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Claim 1 recites "Reconstructing at the consolidating and managing device the original web traffic data". Applicant is required to cancel the new matter in the reply to this Office Action.

For the purpose of this Office Action this material is taken into consideration.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2154

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-21, 23-26, 35-38 and 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Simmons (US 5, 974, 451).

**Referring to claim 1,**

Simmons teaches a method for communicating real-time to subscribers of an Internet Service Provider (ISP) (Fig. 2), comprising the steps of:

- a. Examining a normal flow of original upstream web traffic data generated by the subscriber at a subscriber site through the ISP to a destination URL requested by the subscriber; (col. 5, line 30-47)
- b. Identifying the subscriber by using identifying data available from the subscriber to provide a fixed subscriber identifier (col. 4, line 14-18);
- c. Providing the fixed subscriber identifier to a consolidating and management device ((col. 5, line 30-47);
- d. Reconstructing at the consolidating and managing device the original upstream web traffic data from the subscriber for the purpose of transmitting to the subscriber site a vehicle for selectively generating additional web traffic data for displaying and communicating a message from the consolidating and management device to the subscriber site without interfering with the original upstream web traffic data (col. 4, line 4-8, col. 3, line 47-67, col. 6, line 15-58); and
- e. Selectively transmitting a modified message to the subscriber to cause the inclusion of the original upstream flow of web traffic data for connecting the subscriber to the original destination URL and, in addition, the additional web traffic data

Art Unit: 2154

generated at the consolidating and managing device . (Abstract, col. 4, line 4-8, col. 6, line 15-58," In such implementations, activating a Hyper-Text link in the bulletin display (where the bulletin supports Hyper-Text link), could cause the information display to display more information about the bulletin.").

**Referring to claim 2,**

Simmons teaches the method of claim 1, wherein the message vehicle is an area within a window on the subscriber PC's browser. (Abstract).

**Referring to claim 3,**

Simmons teaches the method of claim 1, wherein the message vehicle is a prompt provided on the subscriber PC. (col. 6, line 33-38)

**Referring to claim 4,**

Simmons teaches the method of claim 1, wherein the fixed identifier is a unique identifier of the subscriber. (col. 4, line 14-18).

**Referring to claim 6,**

Simmons teaches the method of claim 1, wherein the subscriber is identified to belong to a defined group of subscribers and wherein the message is selectively sent to a pre-selected subscriber group. (col. 4, line 1-13, col. 5, line 41-44, Abstract)

**Referring to claim 7,**

Simmons teaches the method of claim 1, wherein the examining step further includes working through Web browsers irrespective of the World Wide Web destination sought by the subscriber identifier. (col. 4, line 4-8, col. 5, line 30-47).

**Referring to claim 8,**

Simmons teaches the method of claim 7, further including the step of returning the subscriber to the original World Wide Web destination after the message has been transmitted. (col. 6, line 33-38)

**Referring to claim 9,**

Simmons teaches the method of claim 1, wherein the examining step is further adapted for working with multiple types of content.(col. 5, line 30-47)

**Referring to claims 10 and 11,**

Simmons teaches the method of claim 1, wherein the examining step is performed by a hardware device that can be simply connected at various points, in plurality, in a provider infrastructure. (Fig. 2, element 201), and the method of claim 10, further including a plurality of said hardware devices. (col. 8, line 24-50).

**Referring to claim 12,**

Simmons teaches the method of claim 10, further including the step of providing optional fail-safe operation of each device such that failure does not disrupt other normal browsing and Internet activity of the subscriber but results only in an interruption of bulletin delivery. (Fig. 2, col. 3, line 63-67, Bulletin Server is inherently designed, placed and providing functionality to not to interfere other normal browsing and Internet activity of the subscriber but results only in an interruption of bulletin delivery if failed.)

**Referring to claims 13 and 14,**

Simmons teaches the method of claim 1, wherein examining step is provided by a software system installed on a computer system that is connected at various points, singly or in plurality, in a provider infrastructure, and The method of claim13, further

including a plurality of hardware devices, each including one of said software system.  
(col. 8, line 24-50, Fig. 2, element 201, (col. 8, line 24-50).

**Referring to claim 15,**

Simmons teaches the method of claim 13, further including the step of providing optional fail-safe operation of each device such that failure does not disrupt other normal browsing and Internet activity of the subscriber but results only in an interruption of bulletin delivery. (Fig. 2, col. 3, line 63-67, Bulletin Server is inherently designed, placed and providing functionality to not to interfere other normal browsing and Internet activity of the subscriber but results only in an interruption of bulletin delivery if failed.)

**Referring to claims 16, 17 and 18,**

Simmons teaches the method of claim 1, further including the step of defining a specific policy for controlling the selective transmission of messages to the subscriber. (col. 5, line 34-41), and the method of claim 16, further including the step of defining a policy Web or other page information, and the method of claim 16, further including the step of defining a policy that includes timing and frequency of delivery. (col. 9, line 39-54).

**Referring to claim 19,**

Simmons teaches the method of claim 16, further including the step of defining a policy for activating the redirecting device to deliver a message in response to a selected subscriber activity. (col. 9, line 39-54).

**Referring to claims 20 and 21,**

Simmons teaches the method of claim 19, wherein the activity comprises a defined destination, and the method of claim 19, wherein the activity comprises an amount of activity by the subscriber. (col. 9, line 39-54).

**Referring to claims 23 and 24,**

Simmons teaches the method of claim 1, further including the step of generating a plurality of independently designated policies to be delivered correctly to the subscriber even if some policy events invoke in simultaneity, and the method of claim 23, wherein the examining step includes an ability to acquire the knowledge of the policies and the identifier when a Web or other request is detected with only an identifying IP address. (col. 9, line 39-54).

**Referring to claim 25,**

Simmons teaches the method of claim 24, wherein the examining step is further adapted for minimizing the overhead of acquiring subscriber parameters through caching of the subscriber information that for a determined portion of the time. (col. 8, line 66 through col. 9, line 54, col. 3, line 10-15).

**Referring to claim 26,**

Simmons teaches the method of claim 1, wherein the examining step is further adapted for use in connection with a consolidating system management device for permitting a group of system devices to be viewed by the provider as a single system. (Fig. 2).

**Referring to claims 35, 36 , 37 and 38,**

Simmons teaches the method of claim 16, further including the step of logging successful implementation of policies to each subscriber, and the method of claim 16,

further including the step of logging interactive responses that have been requested within the policy, and the method of claim 16, further including the steps of detecting and logging the number of simultaneously requested Web connections, and the method of claim 37, further including the step of flagging subscribers that are utilizing more than one simultaneous device per subscription. (col. 5, line 31-47, col. 6, line 22-58, col. 8, line 24-50)

***Claim Rejections - 35 USC § 103***

**11.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**12.** Claims 22, 27-34 and 39 are rejected under 35 U.S.C. 103(a) as being Unpatentable over Simmons (US 5, 974, 451) in view of Castell et al. (hereinafter Castell)(US 2002/0132607 A1).

**Referring to claim 22,**

Keeping in mind Simmons teachings as stated above, Simmons fails to teach method of claim 19, wherein the activity comprises a request carrying a signature of virus contamination.

Castell teaches wherein the activity comprises a request carrying the signature of virus contamination. (Abstract, para. [0046], [0047])

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to provide and enhance Simmon's Bulletin server with

Castell's a message detector and an all points bulletin (APB) generator such that the message detector applies predefined filtering rules to identify and act upon unsolicited email messages to reduce the total number of transmissions in the wireless communication system. The APB generator allows messages to be sent to wireless mobile communication devices through direct wireless messages instead of through email messages.

**Referring to claims 27 and 28,**

Keeping in mind Simmons teachings as stated above, Simmons fails to teach the method of claim 1, wherein the identifying step uses an enforced delivery of a Web page to be used in a distribution and subscription of new subscribers without prior knowledge of serial numbers associated with the new subscriber's interface equipment and without requiring the subscriber to utilize special software and the method of claim 27, further comprising the step of using the enforced delivery of a Web page to reduce a volume of telephone support requests by an enforced pre-announcement of known, future system outages due to scheduled maintenance.

Castell teaches the claimed elements in (para. [0049] and [0053]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to provide and enhance Simmon's Bulletin server with Castell's a message detector and an all points bulletin (APB) generator such that once an unsolicited message is identified by message detector, an automatic APB message can be generated by APB generator to notify and warn an intended recipient user, or all users, about the unsolicited message. Furthermore, global filter rules can be

Art Unit: 2154

automatically created by the wireless congestion reduction system by updating its database with a "black-list" of known unsolicited messages or unsolicited message senders.

**Referring to claims 29, 30, 31, 32 and 33,**

Keeping in mind Simmons teachings as stated above, Simmons fails to teach the method of claim 27, further comprising the step of using the identifier for detection of "signature" forms of Internet packets that indicate a presence of undesirable Content, and the method of claim 29, wherein the undesirable content is a virus, and the method of claim 29, further including the step of transmitting a message identifying the undesirable content to the provider, and the method of claim 29, further including the step of transmitting a message identifying the undesirable content to the subscriber, and the method of claim 31, further including the step of logging the undesirable content identifying message.

Castell teaches the claimed elements in (para.[0058]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to provide and enhance Simmon's Bulletin server with Castell's a message detector and an all points bulletin (APB) generator such that once an unsolicited message is identified by message detector, an automatic APB message can be generated by APB generator to notify and warn an intended recipient user, or all users, about the unsolicited message. Furthermore, global filter rules can be automatically created by the wireless congestion reduction system by updating its

database with a "black-list" of known unsolicited messages or unsolicited message senders.

**Referring to claim 34,**

Simmons teaches the method of claim 28, wherein there is further manually accessed provider information Web site and the transmitting step includes enforcing a delivery of other subscriber-beneficial information that is currently displayed on the manually accessed provider information Web site. (col. 6, line 51-58).

**Referring to claim 39,**

Keeping in mind Simmons teachings as stated above, Simmons fails to teach the method of claim 16, further including the step of transmitting explanations to be issued, in an enforced manner, to subscribers, after a service interruption, in such a manner as to alleviate customer dissatisfaction by illuminating and explaining the problem and the future efforts that are to be taken to eliminate such problems.

Castell teaches the claimed elements in para.[0050].

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to provide and enhance Simmon's Bulletin server with Castell's a message detector and an all points bulletin (APB) generator such that in the event that an email virus attack cripples mail servers, APB messages can still be sent to all mobile device users informing them of the status of the email system. Thus, there is less reliance on messaging servers, and user frustration is minimized during an email outage as taught by Castell.

### ***Conclusion***

**Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 10/023,674


Page 14

Art Unit: 2154

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Abp

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